

**Appl. No.** : **10/600,145**  
**Filed** : **June 19, 2003**

### **REMARKS**

This paper is in response to the final Office Action dated October 6, 2006. Applicants have amended the application as set forth above. Specifically, Claims 1, 7, 11-12, 15, 17, 19, 22 and 24-26 have been amended. Upon entry of the amendments, Claims 1-31 remain pending in this application. No new matter is added by the amendments as discussed below. Applicants respectfully request the entry of the amendments and reconsideration of the application in view of the above amendments and the following remarks.

#### Discussion of Amendments

Claim 1 and its dependent claims 7 and 11-12 have been amended solely to remove certain language. Claim 15 and its dependent claims 17 and 19 have been amended to remove certain language and correct grammatical errors. Claims 22, 25 and 26, which depend from Claim 15, have been amended to clarify the claimed subject matter. Support for the amendments to Claims 22, 25 and 26 can be found in the specification, for example, at Paragraph Nos. 0040 and 0041. Claim 24 has been amended to depend from claim 26 for proper antecedent basis. Applicants respectfully submit that the amendments are fully supported by the application as originally filed and do not constitute the addition of new matter. Applicants respectfully request the entry of the amendments.

#### Request for Continued Examination

Along with this paper, Applicants file a Request for Continued Examination for this application. Applicants respectfully request that the Examiner remove the finality of the Office Action and reconsider the application in view of the amendments as set forth above.

#### Discussion of Rejection of Claims 1-26 under 35 U.S.C. §112, Second Paragraph

The Examiner rejected Claims 1-26 under Section 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter. Applicants respond to the Examiner's comments as follows:

With regard to Claim 1, the Examiner objected to recitation of "all or a fragment of the OmpF protein" as being indefinite. Applicants respectfully disagree and submit that the recitation is definite. However, solely to facilitate early issuance of a patent, Applicants have

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changed the term to “an OmpF protein.” Applicants respectfully submit that the amendment addresses the Examiner’s concern.

With regard to Claim 7, the Examiner objected to recitation that the “protein of interest comprises  $\beta$ -endorphin.” Applicants respectfully disagree and submit that the recitation is definite. However, solely to facilitate early issuance of a patent, Applicants have amended Claim 7 to recite that the “protein of interest is an amino acid sequence comprising the sequence for  $\beta$ -endorphin.” Applicants respectfully submit that the amendment addresses the Examiner’s concern.

With regard to Claims 11-12, 17 and 19, the Examiner asserted that the recitation of “microorganism comprises...” is vague and indefinite. Applicants respectfully disagree and submit that the recitation is definite. However, solely to facilitate early issuance of a patent, Applicants have amended Claims 11-12, 17 and 19 to recite “microorganism is...” Applicants respectfully submit that the amendment addresses the Examiner’s concern.

With regard to Claims 15-26, the Examiner objected to recitations of “at least part of” as being vague and indefinite. Applicants respectfully and submit that the recitation is definite. However, solely to facilitate early issuance of a patent, Applicants have amended Claim 15, from which claims 16-26 depend, to remove the phrase “at least part of”. Applicants respectfully submit that the amendment addresses the Examiner’s concern.

With regard to Claims 20 and 21, the Examiner asserted that there is insufficient antecedent basis for the recited “enzyme” limitation in the claims. Applicants respectfully refer the Examiner to line 1 of Claim 20, which recites dependence from Claim 25, to support the recited “enzyme” limitation and provide proper antecedent basis.

With regard to Claim 22, the Examiner asserted that the claim to be vague and indefinite as failing to recite when the new method step occurs in relation to the method steps recited in Claim 15. Applicants respectfully and submit that the claim is definite without such a recitation. However, solely to expedite the prosecution for early issuance of a patent, Applicants have amended Claim 22 to recite that the new method step occurs after producing the fusion protein in the medium. As noted above, support for this amendment can be found in the specification, for example, in Paragraph No. 0040.

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Similarly, the Examiner found Claims 25-26 as being vague and indefinite as failing to recite when the recited steps occur in relation to the method steps recited in Claim 15. Applicants respectfully submit that the claim is definite without such a recitation. However, solely to expedite the prosecution for early issuance of a patent, Applicants have amended Claim 25 to recite that the recited cleaving step occurs after separating the fusion protein from the medium. In addition, Applicants have amended Claim 26, which depends from Claim 25, to recite that the recited collection of the protein of interest occurs after cleaving the fusion protein. Support for these amendments can be found in the specification, for example, in Paragraph Nos. 0040 and 0041.

With regard to Claim 24, the Examiner found insufficient antecedent basis for the recited "collecting" limitation in the claim. In reply, Applicants have amended Claim 24 to depend from Claim 26 to support the recited "collecting" limitation and provide proper antecedent basis.

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### CONCLUSION

The Applicants have endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. Accordingly, arguments in support of the patentability of the pending claim set are presented above.

In view of the above remarks, reconsideration and withdrawal of the outstanding rejections is respectfully requested. If the Examiner has any questions which may be answered by telephone, he is invited to call the undersigned directly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: \_\_\_\_\_

1/8/07

By: \_\_\_\_\_



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